

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MALCOLM WIENER,

Plaintiff,

v.

MIB GROUP, INC., and
JONATHAN SAGER

Defendants.

Civil Action No. 1:22-CV-10799-WGY

**PLAINTIFF'S ASSENTED TO MOTION FOR LEAVE TO FILE FIRST AMENDED
COMPLAINT**

Plaintiff Malcolm Wiener moves for leave to file the proposed First Amended Complaint, attached hereto as Exhibit A, pursuant to Fed. R. Civ. P. 15(a)(2) for the reasons set out below:

1. Plaintiff filed the initial complaint in this action on May 24, 2022.
2. The complaint was served on defendant Jonathan Sager on June 7, 2022 and on defendant MIB Group, Inc. ("MIB") on June 1, 2022, however, MIB contends it did not receive a copy of the Complaint from its registered agent for several days, until after business hours on June 6, 2022.

3. Defendants sought an extension of time to file a responsive pleading, which the Court permitted through Friday, July 15, 2022. (ECF No. 7).

4. A week prior to the filing date, the parties conferred about Defendants' anticipated motion to dismiss.

5. While Plaintiff does not agree that its original complaint was defective under Rule 12 or Rule 8 standards, Plaintiff seeks to amend to address certain alleged pleading defects

Defendants intended to make the subject of a motion to dismiss. Plaintiff does so in the hopes of avoiding or narrowing Rule 12 motion practice.

6. Plaintiff has conferred with defense counsel, who assents to the relief sought and requested that Plaintiff would similarly assent to Defendants' request for 21 days to respond to the amended complaint. Plaintiff assents to this request.

WHEREFORE, Plaintiff respectfully requests that the Court allow this motion and permit Plaintiff to file the proposed First Amended Complaint, attached, and afford Defendants 21 days from today (August 3, 2022) to file their responsive pleading.

MALCOLM WIENER,

By his attorneys,

/s/ Megan C. Deluhery
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Pro hac vice application pending

Dated: July 13, 2022

CERTIFICATION PURSUANT TO L.R. 7.1

I, Megan C. Deluhery, hereby certify that I conferred with defense counsel, Kristin Madigan, who assented to the relief requested and requested that Defendants would have 21 days to respond to the amended complaint.

/s/ Megan C. Deluhery
Megan C. Deluhery

CERTIFICATE OF SERVICE

I hereby certify that this document has been filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 13, 2022.

/s/ Megan C. Deluhery
Megan C. Deluhery